

आयकर अपीलीय अधिकरण] पुणे न्यायपीठ “बी” पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL PUNE BENCH “B”, PUNE
(Through Virtual Court)

BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI S. S. VISWANETHRA RAVI, JM

ITA No.1343/PUN/2017
निर्धारण वर्ष / Assessment Year : 2012-13

Shri Amrutlal Gangaji Choudhary,
Prop. M/s. Ambika Metal Enterprises,
S.No.103/2, Nehru Nagar,
Pimpri, Pune – 411 018.

..... अपीलार्थी /
Appellant

PAN : AAJPC8405A.

बनाम v/s

The Dy. Commissioner of Income Tax,
Circle – 8, Pune.

..... प्रत्यर्थी /
Respondent

Assessee by : Shri Pramod Shingte.
Revenue by : Shri Mahadevan A.M. Krishnan.

सुनवाई की तारीख / Date of Hearing : 06.07.2021

घोषणा की तारीख / Date of Pronouncement : 06.07.2021

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of learned Commissioner of Income Tax (Appeals) – 9, Pune (hereinafter referred as “Id.CIT(A)”) dated 23.03.2017 for the assessment year 2012-13.

2. The brief facts of the case are that the appellant is an individual, who engaged in the business of Ferrous and Non-Ferrous Scrap Material. The return of income for the A.Y. 2012-13 was filed on 27.09.2012 declaring income of Rs.40,37,896/-. Against the said return of income, the assessment was completed by the DCIT, Circle – 8, Pune (hereinafter referred as “the

Assessing Officer”) vide order dated 19.01.2015 at a total income of Rs.2,80,30,920/- after making addition of Rs.16,40,000/- u/s 68 of the Income Tax Act (hereinafter referred as “the Act”).

3. The brief factual matrix leading to the above addition is as under :

During the course of assessment proceedings, the Assessing Officer found that the assessee had received unsecured loans from the following persons as set out by the Assessing Officer vide Para 9 of the assessment order which reads as under :

Sr. No.	Name of the Lender
1	Anita Navin Agarwal
2	Deepibai Amruta Choudhary
3	Lata Rajendra Agarwal
4	Naresh Goverdhandas Agrawal
5	Prakash A. Choudhary
6	Resham Rameshwar Agarwal
7	Shantidevi Naresh Agarwal
8	Sunil Narayandas Kukreja
9	Tayal Sumit Subhash
10	Tayal Kushal Subhash
11	Vijayashree Alloys Pune Pvt. Ltd
12	V.P. Enterprises
13	Ranchodram K. Choudhary
14	Vanaram K. Choudhary
15	Vijaykumar K. Choudhary

During the course of assessment proceedings, the appellant had filed details of the above sundry creditors such as names, addresses, PAN Numbers etc. Based on the details filed, the Assessing Officer had examined two sundry creditors by issuing summons u/s 131 of the Act, namely, Tayal Sunil Subhash and Naresh Goverdhandas Agarwal, who confirmed that they given the loans to the appellant company. Based on the information filed by the appellant, the Assessing Officer had made an analysis of each loan received by the assessee and come to a conclusion that the creditors had no

independent source of income to give huge loans to the appellant and source of funds for giving loan to the appellant is explained to the amounts received from the relatives. Accordingly, concluded that the creditworthiness of the creditors and the genuineness of the transactions was not proved, therefore, the Assessing Officer brought to tax the sundry credits as unexplained cash credits u/s 68 of the I.T. Act.

4. Being aggrieved by the above addition, an appeal was filed before the ld.CIT(A) who vide impugned order had deleted the addition of Rs.12 lakhs received from Smt. Deepibai Amrutlal Choudhary by holding that the amount represents opening balance. In respect of other credits received, he confirmed the addition by citing that the creditworthiness of the creditors was not proved.

5. On the other hand, the ld.CIT D.R. placed reliance on the order of ld.CIT(A).

6. We heard the rival submissions and perused the material on record. The issue in the present appeal refers to the unexplained cash credits u/s 68 of the I.T Act. The onus lies upon the assessee to prove to the satisfaction of the Assessing Officer as to identity, creditworthiness, genuineness of the credits received during the year under consideration. From the perusal of the assessment order, it is clear that it is not the case of the Assessing Officer that the appellant had failed to file the details establishing the identity, creditworthiness and genuineness of the credit transactions during the year under consideration. The Assessing Officer has merely disbelieved the evidence produced before him and concluded that the creditworthiness of the creditors and genuineness of the transactions was not proved.

7. On appeal before the Id.CIT(A), the appellant had filed the full details of sundry creditors from whom he had received loans during the year under consideration. The Id.CIT(A) without adverting to the evidence filed before him, had simply concluded that the creditworthiness of the creditors and genuineness of the credit transactions was not proved and confirmed the addition. From the material filed before Id.CIT(A), it is clear that the appellant had filed the details of each and every receipt of loan received. The Id.CIT(A) without adverting to the evidence filed before him, without discussing the evidence in respect of each credit and assigning reasons, confirmed the addition by holding that the appellant had failed to prove the creditworthiness of creditors. Thus, the order of the Id.CIT(A) is devoid of any reasons. Needless to say that the Id.CIT(A) is a quasi-judicial authority. An order passed by the quasi-judicial authority should be in conformity with the principles of natural justice. Recording of reasons for the conclusions reached by an authority is a part and parcel of the principles of natural justice. The Hon'ble Apex Court in M/s Kranti Associates Pvt. Ltd. and another v. Sh. Masood Ahmed Khan and others, (2010) 9 SCC 496 while dealing with the requirement of passing a reasoned order by an authority whether administrative, quasi judicial or judicial, had laid down as under:-

“51. Summarizing the above discussion, this Court holds:

- a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
- b. A quasi-judicial authority must record reasons in support of its conclusions.*
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
- e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.*
- f. Reasons have virtually become as indispensable component of a decision making process as observing principles of natural justice by judicial, quasi-*

judicial and even by administrative bodies. g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice. i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency. k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism. l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

On reading the order of Id.CIT(A) it would show that the Id.CIT(A) had given bald findings without giving any cogent and convincing reasons based on evidence on record. Therefore, the order of Id.CIT(A) cannot be sustained in the eyes of the law. In order to meet the ends of justice, we remand the matter back to the file of Id.CIT(A) for denovo adjudication of the matter in accordance with the law. Accordingly, the appeal of the assessee is partly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on 6th day of July, 2021.

Sd/-

(S. S. VISWANETHRA RAVI)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(INTURI RAMA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 6th July, 2021.
Yamini

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-9, Pune.
4. The Pr.CIT-5, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.